# Aquatic Areas

Critical Areas Ordinance Information Sheet

Aquatic areas include streams, lakes, ponds, and marine shorelines (wetlands are handled separately). King County protects aquatic areas as critical areas, in accordance with the state Growth Management Act.

## *Current and proposed requirements*

King County currently categorizes streams into one of three classes based on the presence of fish, the size of the stream, and whether the stream flows year-round or only seasonally. In 2000, King County adopted a public rule establishing a presumption that streams of a certain size and gradient are used by salmon. Under the existing King County system, if a property owner can show that salmon do not use a particular stream segment, the classification can be changed.

The proposed Critical Areas Ordinance adopts the Washington Department of Natural Resource's water typing system. This system classifies streams based on size and potential as fish habitat. Habitat potential is determined by the physical characteristics of the stream, in the same manner as under the existing King County public rule. However, under the proposed ordinance, the actual presence or absence of salmon or other fish is not a determining factor in the classification. If a stream or other aquatic area has appropriate habitat conditions to support fish, it will be classified as such.

The proposed Critical Areas Ordinance uses this classification system and includes streams, lakes, ponds, and marine waters. These aquatic areas are categorized as follows:

*Type S waters* are "shorelines of the state" and include all marine shorelines, rivers with flows over 20 cubic feet per second (cfs), and lakes larger than 20 acres.

*Type F waters* are natural water bodies that contain fish habitat. A stream segment is presumed to contain fish habitat if it: (1) is more than 2 feet wide; (2) has a gradient of less than 20 percent; and (3) has no natural blockage to fish passage downstream.

*Type N waters* are other natural waters that flow to Type S or F waters.

*Type O waters* are natural waters that do not flow to Type S, F, or N waters.

King County is proposing this typing system in order to provide consistency with the state and surrounding cities and counties, most of which use the same typing system. In addition, the typing system will ensure that appropriate protection is provided now for water bodies that will be accessible to fish in the future.

## *Buffers*

Buffers on aquatic areas protect the aquatic area and provide a variety of ecological functions. The proposed Critical Areas Ordinance includes limitations on the type of activities allowed within aquatic area buffers. Those activities that are allowed often require the applicant to prepare a critical areas report that includes an analysis of the impact of the activity on the aquatic area and its buffer and proposes mitigation to minimize or eliminate those impacts.

Proposed minimum buffers for each water type are:

Type S or F: 115 feet (urban; 150 feet in the Bear Creek basin)
165 feet (special urban)
165 feet (rural)

Type N: 65 feet (100 feet in the Bear Creek basin)

Type O: 25 feet

Averaging of buffer widths may be allowed on a case-by-case basis.

## *Exemptions and Allowed Alterations*

When the minimum buffers are maintained, several activities are allowed within aquatic area buffers, either as an exemption or as an allowed alteration. In appropriate circumstances, a property owner may also be eligible for a variance or reasonable use exception. If the exemptions and allowed alterations do not allow a particular activity, a property owner may be able to undertake that activity based on a major habitat evaluation.

The following activities are either exempt or are allowed alterations in aquatic areas and their buffers. In general, the area affected by existing facilities may not be expanded, and hazardous substances, pesticides, or fertilizer may not be used in the aquatic area or buffer. Disturbed areas must generally be replanted with native vegetation. Many of these activities also require the preparation of a critical areas report and mitigation to address their impacts:

- Interior improvements to and exterior maintenance of existing structures, routine landscape maintenance, and personal gardening in previously disturbed areas;
- Maintenance of existing driveways, wells, and utility service connections;
- Maintenance of existing septic systems and, in some circumstances, installation of new septic systems;
- Maintenance, repair, or replacement of existing docks and piers in waters with no anadromous fish habitat;
- Maintenance of cemetery plots;
- Hand clearing and grading for data collection and research purposes, such as for biological studies and surveying;
- Maintenance, repair, or replacement of existing utility lines and facilities and installation of new lines and facilities;
- Harvesting plants and plant materials for restoration and enhancement projects;
- Maintenance of public road maintenance;
- Maintenance of agricultural drainage ditches (in the APD and on A-zoned properties) that carry salmonids in accordance with best management practices;
- Native vegetation may be planted in the buffer using hand labor or light equipment; or

- Data collection and research may be carried out under certain conditions.

## *Options*

The proposed Critical Areas Ordinance increases the buffers on streams and other water bodies and includes additional limitations on the types of activities that may be allowed within an aquatic area buffer. The proposal is based on King County's preliminary consideration of the best available science and county and state growth management goals. See Overview of Best Available Science for Critical Areas Protection in King County (December 2002) for a summary of King County's approach to using best available science.

The proposed Critical Areas Ordinance establishes general standards that apply to the unincorporated area of King County. General standards are relatively simple to implement and provide a property owner certainty about the requirements that will be applied to his or her property. This results in a less costly permitting process and less need to rely on expensive experts.

However, best available science suggests that the standards needed to protect a particular aquatic area are dependent on a variety of factors, including conditions on site and in the sub-basin in which the property is located. A site-specific study is generally required to evaluate these conditions and often requires qualified experts to prepare the studies. Such studies can be expensive and the results are frequently subject to interpretation.

The proposed Critical Areas Ordinance includes a provision allowing a property owner to prepare a major habitat evaluation in order to propose an alternative to the standard development regulations.

Other options that have been considered by King County, but that are not included in this draft, include:

- Setting buffers based on an analysis of conditions in different sub-basins. These buffers would in some cases be larger than the buffers included in the proposed Critical Areas Ordinance and in others cases they might be smaller. Although this approach could result in buffers better tailored to the circumstances of individual properties, it would be more difficult to administer. King County would need to conduct appropriate studies to establish the appropriate buffers within different sub-basins; and
- Developing a set of default mitigation packages. These packages would address the most common types of activities and provide a standard set of mitigation requirements. This could simplify the permitting process and give property owners some certainty about the type of mitigation that they would be required to provide.

## *To learn more*

To learn more, access the following Web site:

http://www.metrokc.gov/ddes/cao